

THE HONORABLE FRED VAN SICKLE

JAMES B. KING (WSBA NO. 8723)
EVANS, CRAVEN & LACKIE, P.S.
818 West Riverside Avenue
Suite 250
Spokane, Washington 99201-0910
Telephone: (509) 455-5200
Facsimile: (509) 455-3632

DIANA L. WEISS (*pro hac vice*)
JAMES P. CUSICK (*pro hac vice*)
E. JOSEPH GIOMETTI (*pro hac vice*)
ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: (415) 773-5700
Facsimile: (415) 773-5759

Attorneys for Defendant
PricewaterhouseCoopers LLP

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In re METROPOLITAN
SECURITIES LITIGATION

Case No. CV-04-0025-FVS

CLASS ACTION

STIPULATED MOTION FOR
PROTECTIVE ORDER

THIS DOCUMENT RELATES TO:
ALL ACTIONS

1 In order to facilitate the production of specific documents subpoenaed from
 2 the Metropolitan and Summit Creditors' Trusts ("Trusts") by
 3 PricewaterhouseCoopers LLP ("PwC"), and to protect the confidentiality of
 4 information produced by the Trusts, a non-party to the present litigation, in
 5 connection with the consolidated cases above, the parties, through their counsel of
 6 record, hereby agree as follows:

7 1. The Trusts have in their possession approximately 69 volumes of
 8 digital documents stored on CDs (the "CDs") that PwC has identified as responsive
 9 to its subpoena duces tecum issued November 24, 2008.

10 2. Due to financial constraints, the Trusts seek to avoid the burden of
 11 conducting a complete review of the 69 volumes, which contain several thousand
 12 files, including email pst files with thousands of individual emails.

13 3. The Trusts agree to produce to PwC and plaintiffs now, and to Roth
 14 Capital Partners ("Roth Capital") and individual defendants Sandifur, Turner,
 15 Snider, Ness and Marcus (collectively, the "Individual Defendants") upon request,
 16 the CDs with a "Highly Confidential" designation, and the production will be
 17 afforded all of the protections described in the protective order currently in place in
 18 this case at Court Record 259, except that this order will limit paragraph F of the
 19 existing protective order by limiting use of the documents contained thereon, as
 20 explained in paragraph 4 below. At the conclusion of the ongoing arbitration
 21 between the Trusts and Ernst & Young LLP ("E&Y"), CPR File No. G-06-62N (the
 22 "Met/EY Arbitration"), the Trusts agree to produce the CDs to E&Y.

23 4. Subject to paragraph 5 below, information on the Highly Confidential
 24 CDs may not be used in any other proceeding, and may only be used for the
 25 purpose of litigating the present case, *In re Metropolitan Mortgage & Securities*
 26 *Co.*, 04-CV-0025-FVS (E.D. Wash.) (the "Action"), except with the prior written
 27 consent of the Trusts. Plaintiffs, PwC, Roth Capital and the Individual Defendants
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(collectively, the “Receiving Parties”) may use Highly Confidential documents from the CD for the purpose of litigating this Action only if advance notice of such use and the documents to be used is given to the Trusts pursuant to paragraph 6 below, so that the Trusts will have the opportunity to conduct a privilege review of such documents. Furthermore, absent a further order by this Court permitting such production, written permission by the Trusts, or the conclusion of the Met/EY Arbitration, the Receiving Parties shall not produce or show the content of the CDs, or any subset thereof, to E&Y, except under the following circumstances:

(a) Highly Confidential documents contained on the CDs may be shown to EY when marked by the Receiving Parties as exhibits at a deposition in this Action, with prior notice to the Trust pursuant to paragraph 6 below;

(b) Highly Confidential documents on the CDs may be shown to EY when marked by the Receiving Parties as exhibits at the trial of this Action (as required by the Court, when trial exhibits are to be exchanged among the parties), with prior notice to the Trust pursuant to paragraph 6 below;

(c) Highly Confidential documents on the CDs may be shown to EY when a document filed by the Receiving Parties with the Court in this Action cites to, references, or attaches a Highly Confidential document from the CDs, with prior notice to the Trust pursuant to paragraph 6 below;

(d) Highly Confidential documents on the CDs may be shared with EY when such documents are cited by or relied upon by any expert retained by the Receiving Parties, with prior notice to the Trust pursuant to paragraph 6 below;

(e) Highly Confidential documents on the CDs may be shared with EY when a Receiving Party believes in good faith that the document is necessary for discussion with an expert that has been jointly retained by one or more of the Receiving Parties and E&Y, with prior notice to the Trusts pursuant to paragraph 6 below, unless the Receiving Party intends to share greater than 25 documents from

1 the CDs with EY, in which case the prior notice will pursuant to paragraph 4(f)
 2 below; or

3 (f) Highly Confidential documents on the CDs may be shared with
 4 EY when used in the normal course of litigating this action for any other purpose
 5 not listed in (a) – (d) above, with seven business days prior notice to the Trust
 6 pursuant to paragraph 6 below, provided that the Trusts do not object to the sharing
 7 of such document with EY within five business days after receipt of such notice.
 8 The parties agree that disclosing Highly Confidential documents or the contents
 9 thereof to E&Y pursuant to a joint defense agreement or otherwise does not, in and
 10 of itself, constitute normal course of litigating this action.

11 5. E&Y objects to the limitations set forth in Paragraph 4 above and to
 12 the Trusts' refusal to produce the Highly Confidential documents to E&Y. E&Y
 13 reserves its right to move to compel production of the Highly Confidential
 14 documents from the Trusts, and reserves its right to use documents for all purposes.
 15 Nonetheless, E&Y does not object to the production of the Highly Confidential
 16 documents to the Receiving Parties pursuant to this Stipulated Motion for
 17 Protective Order.

18 6. Before any party uses any Highly Confidential documents in this
 19 Action, and prior to showing or producing any such documents to EY pursuant to
 20 paragraph 4(a) – 4(e) above, the parties agree to submit such documents to the
 21 Trusts for a privilege review. Submissions of up to 25 documents will be made to
 22 the Trusts at least two business days before such documents are to be used; for each
 23 additional 25 documents in a submission, the submission will be made at least one
 24 business day earlier. All Highly Confidential documents to be used pursuant to
 25 paragraph 4(e) above will be submitted to the Trusts for a privilege review at least
 26 seven business days before such documents are to be used, and the Trusts will have
 27 five business days to respond to such requests. The Trusts agree to keep such
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1 requests confidential and will not disclose them to any other party, including
2 plaintiffs in this matter, and the Trusts agree that documents submitted for privilege
3 review will not be shown to any other party, including plaintiffs in this matter.
4 Upon receiving notification from the Trusts that any Highly Confidential document
5 is subject to a claim of attorney client privilege or work product exemption, all
6 parties shall return such document, including all copies thereof, and permanently
7 delete such document from all electronic storage within 10 days of receipt of such
8 notice, and will not use the document in the regular course of litigation; provided,
9 however, that if a Receiving Party disagrees with the Trusts' assertion of privilege it
10 may retain the document while meeting-and-conferring and/or litigating the
11 propriety of the privilege claim. In such event, the Receiving Party may not use the
12 document in the regular course of litigation until the privilege issue is resolved.

13 7. Allowing access to the Highly Confidential information pursuant to the
14 procedures outlined in this Order will not operate as a waiver of the attorney client
15 privilege or work product protection, and all documents the Trusts determine
16 pursuant to the procedure in paragraph 6 to be privileged or protected by the work
17 product doctrine will be deemed inadvertently disclosed under Federal Rule of
18 Evidence 502(b). By operating according to the procedure in paragraph 6, the
19 Trusts will be deemed to have taken prompt and reasonable steps to rectify the error
20 under Federal Rule of Evidence 502(b)(3).

21 8. Neither plaintiffs, nor PwC, nor Roth Capital, nor the Individual
22 Defendants, nor any of their counsel, are responsible in any way for enforcing any
23 other party's compliance with this Order in their use of the Highly Confidential
24 materials, and no action may be brought against plaintiffs, PwC, Roth Capital
25 and/or the Individual Defendants in any court for failure to enforce any other
26 party's compliance with this Protective Order. If a party to this litigation seeks to
27 use in another litigation any Highly Confidential materials that it obtained pursuant
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1 to Paragraph 4 above, the Trusts and only the Trusts are responsible for opposing
2 that action.

3 9. The Trusts acknowledge that information and documents on the
4 Highly Confidential CDs may be separately available to, or already in possession
5 of, the Receiving Parties and E&Y from other sources. Nothing herein restricts the
6 Receiving Parties' or E&Y's right to use information or documents obtained from
7 other sources.

8
9 Dated: March 27, 2009

ORRICK, HERRINGTON & SUTCLIFFE
LLP

11 /s/ E. Joseph Giometti

12 Diana L. Weiss (admitted *pro hac vice*)
13 James P. Cusick (admitted *pro hac vice*)
14 E. Joseph Giometti (admitted *pro hac vice*)
Attorneys for Defendant
PricewaterhouseCoopers LLP

15 405 Howard Street
16 San Francisco, CA 94105
17 Telephone: (415) 773-5700
Facsimile: (415) 773-5759

18 Dated: March 27, 2009

HAGENS BERMAN SOBOL SHAPIRO LLP

20 /s/ Tyler Weaver

21 Steve W. Berman (WSBA No. 12536)
22 Jeniphre Breckenridge (WSBA No. 21410)
Tyler S. Weaver (WSBA No. 29413)
23 Robert F. Lopez WSBA No. 21057)
Co-Lead Counsel for Plaintiffs

24 1301 5th Avenue, Suite 2900
25 Seattle, WA 98101
26 Telephone: (206) 623-7292
27 Facsimile: (206) 623-0594
28

1 Dated: March 27, 2009

BARTLIT BECK HERMAN PALENCHAR &
SCOTT LLP

2
3 /s/ John Hughes

4 Philip S. Beck, (admitted *pro hac vice*)
5 Chris Lind, (admitted *pro hac vice*)
6 Chris Landgraff, (admitted *pro hac vice*)
7 John Hughes, (admitted *pro hac vice*)
8 Attorneys for Defendant
9 Ernst & Young LLP

10 Courthouse Place
11 54 West Hubbard Street
12 Chicago, IL 60610
13 Telephone: (312) 494-4400
14 Facsimile: (312) 494-4440

15 Dated: March 27, 2009

DLA PIPER US LLP

16 /s/ Brian D. Buckley

17 Brian D. Buckley (WSBA No. 26423)
18 Stellman Keehnell (Bar No. 9309)
19 Attorneys for Defendants
20 William Snider
21 Irv Marcus
22 Robert Ness

23 701 Fifth Avenue, Suite 7000
24 Seattle, WA 98104-7044
25 Telephone: (206) 839-4800
26 Facsimile: (206) 839-4801
27
28

1 Dated: March 27, 2009

CORR CRONIN MECHELSON
BAUMGARDNER & PREECE LLP

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/s/ Steven W. Fogg

Kelly P. Corr (WSBA No. 555)
Steven W. Fogg (WSBA No. 23528)
Attorneys for Defendant
Cantwell Paul Sandifur, Jr.

1001 Fourth Avenue, Suite 3900
Seattle, WA 98154
Telephone: (206) 625-8600
Facsimile: (206) 625-0900

Dated: March 27, 2009

DAVIS WRIGHT TREMAINE LLP

/s/ Stephen Rummage

Stephen M. Rummage (WSBA No. 11168)
Attorneys for Defendant
Thomas G. Turner

1201 Third Avenue, Suite 2200
Seattle, WA 98101-3045
Telephone: (206) 622-3150
Facsimile: (206) 757-7700

Dated: March 27, 2009

STROOCK & STROOCK & LAVAN LLP

/s/ Mary D. Manesis

Julia B. Strickland (admitted *pro hac vice*)
Mary D. Manesis (admitted *pro hac vice*)
Attorneys for Defendant
Roth Capital Partners

2029 Century Park East, Suite 1800
Los Angeles, CA 90067-3086
Telephone: (310) 556-5800
Facsimile: (310) 556-5959

1 Dated: March 27, 2009

SUSMAN GODFREY LLP

2
3 /s/ Rachel Black

4 Rachel Black
Attorneys for the Trusts

5 1201 Third Avenue
6 Suite 3800
7 Seattle, WA 98101-3000
8 Telephone: (206) 516-3880
9 Facsimile: (206) 516-3883
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ORDER

IT IS SO ORDERED.

DATED this 1st day of April, 2009.

s/ Fred Van Sickle

Honorable Fred Van Sickle
United States District Judge